

MINUTES
KENTUCKY BOARD OF PHARMACY
Frankfort, Kentucky
April 16, 2003

CALL TO ORDER:

A regular meeting of the Kentucky Board of Pharmacy was held at the Board office, 23 Millcreek Park, in Frankfort, Kentucky. President Jones called the meeting to order at 9:05 a.m.

Members present: Georgina Kindall Jones, Tim Armstrong, Joe Carr, Rebecca Cooper, Mark Edwards, and Patricia Thornbury. Staff Present: Michael A. Moné, Executive Director; Jeffrey L. Osman, Pharmacy Inspections and Investigations Coordinator; Maxine Snively and Philip C. Losch, Pharmacy and Drug Inspectors; Cheryl Lalonde-Mooney, Assistant Attorney General and Board Counsel, and Shannon Settles, Executive Secretary. Guests: Danna Droz, Drug Control, Cabinet for Health Services; Mike Mayes, KPhA; Brian Fingerson, Pharmacist Recovery Network; Brian Lance, Meijer; Todd Downing, CVS; Richard Ross; Nancy Horn; Tom Foster; and Greg Naseman, CVS; J.D. Hammond, University of Kentucky College of Pharmacy intern student. Juanita M. Toole, Court Reporter, recorded the meeting.

APPEARANCES:

Eugenia Arms. Ms. Arms appeared to petition for reinstatement of her pharmacist's license. Ms. Arms was placed under oath by Ms. Toole, Court Reporter. Ms. Arms gave a short overview of the cause leading to the loss of her pharmacist's license. Ms. Jones and Mr. Moné reviewed the recommendation of the Impaired Pharmacist Committee for reinstatement of license. Mr. Carr moved to reinstate with an Order of Reinstatement with stipulations as follows: Probation for twenty five (25) years; employment of no more than 40 hours per week or no more than 80 hours in a two-week period; provide a copy of Agreed Order to all employers; enter into a HELP contract; submission of a signed release for medical records; AA or NA no less than three (3) times per week; monthly random urine screens; not ingest any mood altering substance whether legend or nonlegend medication; not ingest alcoholic beverages; notification to the Board of all legend and nonlegend drugs taken within 10 days; shall keep Board informed of place of employment; Board or Board President's approval of all employers; obtain all prescriptions and those of family members at pharmacy designated in writing to the Board; shall not dispense any drugs for herself or her family members; and attendance at a Kentucky program on Alcoholism and other Drug Dependencies within one year. Order on Reinstatement to be drafted and forwarded to Ms. Arms for her signature and upon its return to be signed by President Jones. Ms. Cooper seconded and the motion passed unanimously.

Roy Steven Black. Mr. Black appeared to petition for reinstatement of his pharmacist's license. Mr. Black was placed under oath by Ms. Toole, Court Reporter. Mr. Black gave a short overview of the cause leading to the loss of his pharmacist's license. Ms. Jones and Mr. Moné reviewed the recommendation of the Impaired Pharmacist Committee for reinstatement of license. Ms. Thornbury moved to reinstate with an Order of Reinstatement with stipulations as follows: Mr. Black complete internship of not less than 640 hours; take and pass MPJE; Probation for five (5) years; employment of no more than 40 hours per week or no more than 80 hours in a two-week period; provide a copy of Agreed Order to all employers; enter into a HELP contract; submission of a signed release for medical records; AA or NA no less than three (3) times per week; monthly random urine screens; not ingest any mood altering substance whether legend or nonlegend medication; not ingest alcoholic beverages; notification to the Board of all legend and nonlegend drugs taken within 10 days; shall keep Board informed of place of employment; Board or Board President's approval of all employers; obtain all prescriptions and those of family members at pharmacy designated in writing to the Board; shall not dispense any drugs for himself or his family members; and attendance at a Kentucky program on Alcoholism and other Drug Dependencies within one year. Order on Reinstatement to be drafted and forwarded to Mr. Black for his signature and upon its return to be signed by President Jones. Mr. Carr seconded and the motion passed unanimously.

John Powless. The Board reviewed Mr. Powless' request for reinstatement. After a brief discussion, Mr. Armstrong moved to enter a new Agreed Order for the continuing education and for Mr. Powless to take the MPJE and be issued a license upon successful completion of the MPJE. Mr. Carr seconded and the motion passed unanimously.

Cardinal Health/Michael Wyant. The Board reviewed Mr. Wyant's request for interpretation on action by the Kentucky Revenue Cabinet asking cardiology offices to pay sales tax on patient specific prescription drugs. After a brief discussion, Ms. Thornbury moved to authorize Mr. Moné to correspond to the Kentucky Revenue Cabinet. Mr. Edwards seconded and the motion passed unanimously.

MINUTES: On motion by Mr. Edwards, seconded by Mr. Carr and passed unanimously, the Minutes of March 5, 2003 were adopted as amended.

INTERAGENCY: **Drug Control.** Danna Droz informed the Board of her retirement from Drug Control.

BOARD REPORTS: **President.** Ms. Jones gave an update of the highlights from the APhA meeting in New Orleans. Ms. Jones briefly mentioned to the Board her concern regarding a Board member going to the Attorney General's Office regarding Board Counsel without the Board's knowledge.

Members. Ms. Thornbury gave an update from the last ARNP meeting she attended.

Executive Director. Mr. Moné informed the Board of the University of Kentucky College of Pharmacy requiring a UK staff member being present during the Board exam on June 28th and 29th.

CURRENT/PENDING CASES: Mr. Carr moved for acceptance and entry of the proposed Agreed Order as written. Mr. Edwards seconded and the motion passed unanimously.

Case No. 01-0123; Case No. 02-0098; Case No. 02-0114A; Case No. 02-0114B; Case No. 02-0154B; Case No. 02-0154C; Case No. 02-0154J; Case No. 02-0158A; Case No. 02-0159A; Case No. 02-0159B; Case No. 02-0162; Case No. 02-0169; Case No. 03-0003; Case No. 03-0005; Case No. 03-0006; Case No. 03-0007; Case No. 03-0008A; Case No. 03-0008B; Case No. 03-0008F; Case No. 03-0014; Case No. 03-0015; Case No. 03-0016; Case No. 03-0017; Case No. 03-0018; Case No. 03-0019; Case No. 03-0020; Case No. 03-0021; Case No. 03-0023.

Case Review Committee

Mr. Carr moved for acceptance of the Committee recommendation for the following case reports, Mr. Armstrong seconded. Ms. Thornbury moved to amend the motion to separate the Med Error cases from the recommendations contained in the report. The motion to amend to separate died for lack of a second. Ms. Thornbury voted in opposition to the main motion. The main motion passed.

Case No. 02-0172A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0172B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0172C. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0009A. Pharmacy permit holder allegedly failed to maintain proper record keeping for legend drugs, including controlled substances, and allegedly failed to maintain proper security of pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0009B. Pharmacist-in-charge allegedly failed to maintain proper record keeping for legend

drugs, including controlled substances, and allegedly failed to maintain proper security of pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0010A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0010B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0011A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error due to inappropriate issue of refills. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0011B. Pharmacist allegedly engaged in unprofessional conduct by dispensing without a prescription. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0013. Pharmacist allegedly failed to perform patient counseling and/or prospective drug utilization review for a patient in Ohio and as result a medication error was committed. Pharmacist entered into Settlement Agreement with the Ohio State Board of Pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0022A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0022B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0024. Pharmacist allegedly engaged in unprofessional conduct by committing insurance fraud and allegedly failing to pay for prescriptions. CRC recommendation: there is sufficient evidence developed and the investigator is directed to conduct further investigation. Mr. Armstrong seconded and the motion passed.

Case No. 03-0025A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error in the form of incorrect number of tablets dispensed. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Armstrong seconded and the motion passed.

Case No. 03-0025B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error in the form of incorrect number of tablets dispensed. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Armstrong seconded and the motion passed.

Case No. 03-0027. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0029. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0030. Pharmacist allegedly violated previous Agreed Order, failed to renew pharmacist's license in a timely manner, and failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0031. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and

continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0032A. Special Medical Gas permit holder allegedly failed to have quarterly inspections conducted by a consultant pharmacist. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0032B. Consultant pharmacist allegedly failed to conduct quarterly inspections of a Special Medical Gas facility. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0033. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0034. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0035. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0036. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0041. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0042. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0043. Pharmacist allegedly violated previous Agreed Order. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0044. Special Medical Gas permit holder allegedly changed locations without properly notifying the Board office. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0045. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0046. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0047A. Pharmacy permit holder allegedly failed to maintain proper security of controlled substances, failed to maintain proper record keeping and documentation, failed to secure floor stock. Permit holder also allegedly failed to have a pharmacist-in-charge that assured rational drug therapy, properly controlled and reviewed drug distribution, and dispensed controlled substances without authorization from a practitioner. Permit holder failed to have a pharmacist-in-charge for greater than 14 days. CRC recommendation: there is sufficient evidence developed and the investigator is directed to conduct further investigation. Mr. Armstrong seconded and the motion passed.

Case No. 03-0047B. Pharmacist-in-charge allegedly failed to maintain proper security of controlled substances, failed to maintain proper record keeping and documentation, failed to properly control and review drug distribution, failed to secure floor stock, failed to assure rational drug therapy, and dispensed controlled substances without authorization from a practitioner. CRC recommendation: there is sufficient evidence developed and the investigator is directed to conduct further investigation. Mr.

Armstrong seconded and the motion passed.

Case No. 03-0048A. Pharmacy permit holder allegedly failed to provide proper security of controlled substances and failed to maintain proper record keeping and documentation. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0048B. Pharmacist-in-charge allegedly failed to maintain proper security of controlled substances and failed to maintain proper record keeping and documentation. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0049. Wholesaler permit holder allegedly closed without properly notifying the Board office. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0050. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0051. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0052. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0053. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0054. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0055. Pharmacist allegedly failed to renew pharmacist license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 03-0056. Pharmacist allegedly failed to complete continuing education requirements for 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

RECIPROCITY/RELICENSURE/INTERNSHIP

Jill D. Williams. The Board reviewed Ms. Williams' request for reciprocity. After a brief discussion, Ms. Cooper moved to table the request until after Ms. Williams appears before the Impaired Pharmacist Committee. Mr. Carr seconded and the motion passed unanimously.

Larry Blandford. The Board reviewed Mr. Blandford's request for reinstatement of his license. After brief discussion, Mr. Armstrong moved to reinstate Mr. Blandford's license provided he completes the MPJE. Mr. Carr seconded and the motion passed.

CORRESPONDENCE: **Gregory Dodds.** The Board reviewed correspondence regarding the suspension of Mr. Dodds' Indiana license and the surrender of Ms. Dodds' Kentucky license. After a brief discussion, Mr. Carr moved to accept the surrender of Mr. Dodds' license and enter a final order. Mr. Edwards seconded and the motion passed unanimously.

Jane Johnson. The Board reviewed Ms. Johnson's Board exam from January 2003. After reviewing the exam, Mr. Carr moved to uphold Ms. Johnson's original score from January 2003. Mr. Edwards seconded and the motion passed unanimously.

Thomas Hoffman. The Board reviewed correspondence regarding Mr. Hoffman being approved to

work at Arlington Pharmacy and Wickliffe Pharmacy. After a brief discussion, Mr. Edwards moved to approve the request. Mr. Carr seconded and the motion passed unanimously.

John Chaney. The Board reviewed correspondence regarding approval of offsite storage of records. Mr. Carr moved to authorize Mr. Moné to draft a letter stating that Mr. Chaney may store records offsite, however, he is not authorized to store them at his home. Ms. Thornbury seconded and the motion passed unanimously.

Sabrina Free. The Board reviewed correspondence regarding the proper and safe way for school nurses to send a student's medication on field trips. Mr. Armstrong moved to authorize Mr. Moné to draft letter to Dr. Leach and the Board of Education stating this is beyond the Board of Pharmacies scope. Ms. Thornbury seconded and the motion passed unanimously.

Sharon Justin. The Board reviewed correspondence regarding a clear definition of a pharmacy technician's role within each state's pharmacy practice act. Ms. Thornbury moved to authorize Mr. Moné to draft a letter. Mr. Edwards seconded and the motion passed unanimously.

William Wilson. The Board reviewed correspondence regarding approval to change locations of employment. Ms. Jones approved the request prior to the Board meeting. Ms. Thornbury moved to uphold Ms. Jones approval of the request. Mr. Carr seconded and the motion passed unanimously.

Life Medical Systems. The Board reviewed correspondence regarding approval of change of pharmacy address and change of pharmacist in charge. Mr. Edwards moved to approve the request. Mr. Carr seconded and the motion passed unanimously.

James Thomas. The Board reviewed correspondence regarding change of pharmacist in charge and exemption of carrying two sets of reference materials and equipment at shared common office spaces. Mr. Armstrong moved to table for more information. Mr. Edwards seconded and the motion passed. Ms. Thornbury recused.

LEGISLATION/REGULATIONS:

After a brief discussion, Mr. Carr moved to authorize Mr. Moné to file a Notice of Intent to amend KAR 2:015. Mr. Edwards seconded and the motion passed unanimously.

Dr. Foster discussed mandatory counseling on 5 drug areas: antihypertensives, diabetes, children under 3, anticoagulants, and osteoporotic drugs. After a brief discussion, Mr. Carr moved to authorize Mr. Moné to file a Notice of Intent to amend KAR 2:210. The motion died for lack of a second.

CONTINUING EDUCATION:

Mr. Edwards moved to accept the continuing education program as recommended. Mr. Carr seconded and the motion passed unanimously. Ms. Thornbury moved to insert the CE approval form into the Board manual. Mr. Armstrong seconded and the motion passed unanimously.

OLD BUSINESS:

Patricia Thornbury - Request for Review of Board Exams with insufficient points to pass. The Board reviewed Ms. Thornbury's request and determined that the current process was sufficient. After further discussion, Ms. Thornbury moved to formulate a specific process for review of all Board Examinations with insufficient points to pass. The motion died due to lack of second.

Patricia Thornbury - Process of Line Item budget review and approval. The Board reviewed the process of the submission of the budget. After a brief discussion, Ms. Thornbury moved to have Mr. Moné provide the Board with a copy of the budget prior to submitting it to GOPM, and then to resubmit it to the Board after it is returned from GOPM. The motion died due to lack of second.

NEW BUSINESS:

Patricia Thornbury - Responsibilities of Attorney General's representative to the Board. The Board was informed that Ms. Thornbury had unilaterally contacted the Attorney General's Office to complain about the relationship of the Boards counsel to the Board. Board members expressed dissatisfaction that Ms.

Thornbury had not addressed this matter with the Board prior to her communication with the Attorney General's Office. The Board expressed dismay that one Board member would purport to act on behalf of the Board without the Boards approval.

Patricia Thornbury - Board seating arrangements and replacement of defective equipment.

ADJOURNMENT:

On motion by Mr. Carr, seconded by Ms. Cooper and passed unanimously, President Jones adjourned the meeting at 3:35 p.m. The next Board meeting is scheduled to begin at 9:00 a.m. on June 4, 2003, at the Board office in Frankfort.

Michael A. Moné, Executive Director

MAM:sms

MINUTES APPROVED JUNE 4, 2003.